

See United States v. Ponce, 947 F.2d 646, 649 (2d Cir. 1991) (citing *United States v. Ochs*, 595 F.2d 1247, 1253 (2d Cir. 1979) “[D]efendant must show, among other things, a legitimate basis for being in [the vehicle], *such as permission from the owner.*”) (emphasis added).

On the other hand, the defendant has established an expectation of privacy in the Backpack, the Computer Bag, and the contents of the Computer Bag. Therefore, despite the lack of clarity regarding the defendant’s legitimate privacy expectation in the Vehicle, out of an abundance of caution, the defendant’s request for a hearing on the issue of suppression of the tangible evidence seized from the Vehicle is granted. However, the defendant is cautioned, once again, that he bears the burden of establishing a legitimate expectation of privacy in the Vehicle, either before or at the suppression hearing. *United States v. Padilla*, 508 U.S. 77, 81 (1993) (citing *Alderman v. United States.*, 394 U.S. 165, 171–172 (1969) (“It has long been the rule that a defendant can urge the suppression of evidence obtained in violation of the Fourth Amendment only if that defendant demonstrates that his Fourth Amendment rights were violated by the challenged search or seizure.”)).

SO ORDERED

Dated: Brooklyn, New York
January 7, 2016

_____/s/
Dora L. Irizarry
United States District Judge